

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	NO. 3:09-CR-210-B
	§	
JESSE WILLIAM MCGRAW (1)	§	

**MOTION TO EXTEND TIME TO FILE OBJECTIONS
TO PRESENTENCE REPORT**

TO THE HONORABLE JANE J. BOYLE, UNITED STATES DISTRICT JUDGE:

Defendant, Jesse William McGraw, by his undersigned attorney, files this *Motion To Extend Time to File Objections to Presentence Report*.

As grounds, Defendant would show this Honorable Court as follows.

I

On December 17, 2010, the Court signed an *Amended Scheduling Order for Sentencing* (doc #72). Pursuant to said order, written objections to the Presentence Report, or a written statement adopting the findings of the Presentence Report must be delivered by the parties to the Probation Officer, to the Court, and to each other by or before 4:00 p.m., February 4, 2011.

Sentencing is set for March 17, 2011 at 1:30 p.m.

Counsel for Defendant has been unable to meet with Defendant to personally review the Presentence Report and the Addendum. Inclement weather and treacherous driving conditions have hampered counsel's efforts to travel to Seagoville FCI to meet with Defendant. Counsel for Defendant requests the Court take judicial notice of the facts relating to the extreme weather and its effect upon driving conditions within the Fort Worth-Dallas Metroplex area, including the area in which Counsel for Defendant has his office (North Richland Hills, Texas) and the area in which Defendant is being held (Seagoville, Texas), as being not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Counsel for Defendant respectfully requests an extension of one calendar week, until February 11, 2011, in which to make written objections to the Presentence Report, or a written statement adopting the findings of the Presentence Report.

II

Counsel for Defendant has attempted to communicate with both the Assistant United States Attorney and the United States Probation Officer regarding this motion, by means of e-mail and telephone. As of the time of the filing of this motion (approx. 9:30 am on Friday, February 4, 2011), telephone calls to the office of the United States Attorney in Dallas reveal that the office appears to be closed due to weather. However, the United States Probation Officer

who prepared the Presentence Report, Edith Jones, has replied to an e-mail inquiry, stating that a one week extension should be fine.

PRAYER

WHEREFORE PREMISES CONSIDERED, Defendant Jesse William McGraw respectfully requests that the Court grant an extension of one calendar week, until February 11, 2011, in which to make written objections to the Presentence Report, or a written statement adopting the findings of the Presentence Report.

Defendant prays that he receive all relief requested herein and all relief to which he is entitled to under the laws and the Constitution of the United States of America

Respectfully submitted,



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CERTIFICATE OF CONFERENCE

I certify that on February 4, 2011, I attempted to confer with the attorney for the government, AUSA Candina S. Heath, but could not reach her. At the time of the filing of this motion, the office of the United States Attorney in Dallas appears to be closed due to weather. However, based upon the reply of the United States Probation Officer, Counsel for the Defendant reasonably believes the motion will be unopposed.



Todd A. Durden

CERTIFICATE OF SERVICE

I certify that on February 4, 2011, I electronically filed the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing (ECF) system of the Court, and thereby served it on all counsel of record in this case.



Todd A. Durden